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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8 DRK Photo, a sole proprietorship,) No. CV 11-08133-PCT-FJM
9 Plaintiff,) **ORDER**
10 vs.)
11)
12 John Wiley & Sons, Inc., and John Doe)
13 Printers 1-10,)
14 Defendants.)

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16 We have before us defendant John Wiley & Sons, Inc.'s ("Wiley") motion to dismiss
17 or transfer (doc. 18), plaintiff's response (doc. 22), and defendant's reply (doc. 23). Wiley
18 asks that we transfer this case to the United States District Court for the Southern District of
19 New York.

20 Wiley filed an action in the Southern District of New York on August 5, 2011,
21 seeking a declaration that it is not liable to DRK for fraud or copyright infringement. DRK
22 Photo ("DRK") filed this case on August 25, 2011, alleging copyright infringement. (Doc.
23 1). Wiley argues we should dismiss or transfer this case because the New York action was
24 filed first.

25 The first-to-file rule allows us to "decline jurisdiction over an action when a complaint
26 involving the same parties and issues has already been filed in another district." Pacesetter
27 Systems, Inc. v. Medtronic, Inc., 678 F.2d 93, 95 (9th Cir. 1982). Exceptions to the rule
28 include bad faith, anticipatory suit, and forum shopping. Alltrade, Inc. v. Uniweld Prods.,

